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13 FEB 2008

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In re Application of:

SHAW, Fraser, et al.

U.S. Application No.: 10/595,704

PCT No.: PCT/GB2004/004677

Int. Filing Date: 04 November 2004

Priority Date: 07 November 2003

Attorney's Docket No.: FRYHP0142US

For: A FRAME UNIT FOR

TENSIONING A PRINTING

SCREEN AND A JIG FOR

FITTING A PRINTING SCREEN

TO OR REMOVING A PRINTING

SCREEN FROM A FRAME UNIT

DECISION REGARDING  
SUBMISSION UNDER  
37 CFR 1.42

This decision is issued in response to applicants' submission on 08 October 2007 of a declaration executed on behalf of deceased inventor Richard Andre PIATEK by the deceased inventor's executrix Lesley PIATEK, considered herein under 37 CFR 1.42 and 1.497.

### BACKGROUND

On 04 November 2004, applicants filed international application PCT/GB2004/004677. The international application claimed a priority date of 07 November 2003, and it designated the United States. On 26 May 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 07 May 2006.

On 05 May 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 07 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, the search and examination fees, and additional claims fees were required.

On 08 October 2007, applicants filed a response to the Notification of Missing Requirements (with required five-month extension fee). The response included payment of the necessary surcharge, search fee, examination fee, and claims fees, as well as the declaration considered herein under 37 CFR 1.42 and 1.497.

### DISCUSSION

37 CFR 1.42 states in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative must be identified on the declaration (as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497).

Here, the declaration filed 08 October 2007 on behalf of the deceased inventor, including the added page entitled "Signing By Executrix On Behalf Of Deceased Inventor," includes the required citizenship, residence, and mailing address information for Lesley PIATEK, the person signing the declaration on behalf of deceased inventor Richard Andre PIATEK, and it identifies this person as the "executrix" of the deceased inventor. The declaration also includes the citizenship of the deceased inventor and all other information required under 37 CFR 1.497.

Applicants have also submitted an acceptable declaration executed by the two surviving inventors.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Richard Andre PIATEK is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 08 October 2007.

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